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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,225	09/02/2004	Lidvar Budal	LUKP:115US	5224
24041	7590	09/14/2005	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			LORENCE, RICHARD M	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/711,225

Applicant(s)

BUDAL ET AL.

Examiner

Richard M. Lorence

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/25/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is in response to the amendment filed on June 24, 2005. The specification and claims 1-17 have been amended.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device for carrying out the method as set forth in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional

replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The replacement drawings were received on June 24, 2005. These drawings are not acceptable for reasons indicated below.

#### ***Specification***

The disclosure is objected to because of the following informalities: In lines 18 and 25 of paragraph [0029] "disengaged" should read - - engaged - -.

Appropriate correction is required.

#### ***Response to Amendment***

The amendment filed June 24, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

There does not appear to be support in the original disclosure for each of the steps depicted in the flowchart of the replacement sheet containing Figure 2.

Specifically, it is not seen where the originally filed disclosure provides support for the decision block which determines whether to carry out consecutive or simultaneous adaptation. Nor can it be seen where the originally filed disclosure provides support for the decision block which determines whether to carry out the last successful adaptation or starting off gear method. As originally disclosed in paragraph [0033] there are four different possibilities for carrying out the sensing point adaptation, however there is no hint that these different possibilities would be alternatively used together. It appears from the original disclosure that the four possibilities represent four different species of the control method.

There does not appear to be support in the original disclosure for each of the steps depicted in the flowchart of the replacement sheet containing Figure 4. Specifically, it is not seen where the originally filed disclosure provides support for the decision blocks which determine whether to carry out Strategy 1, 2 or 3; whether to carry out Strategy 4 or 5; or whether to carry out Strategy 6 or 7.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, while the various methods covered by the original claims were believed to be directed to different species of the claimed method, the description as amended and when taken in conjunction with the replacement drawing sheets (Figures 2 and 4) imply that the controller determines which of the various methods to employ, i.e. consecutive vs. simultaneous adaptation and/or last successful adaptation vs. starting off gear method; and the strategies 1-7 shown in Figure 4. Assuming that one could somehow infer from the original disclosure that these methods are used together in a single pre-programmed controller, the disclosure does not adequately describe the how the controller would determine which of the various methods should be employed at any give time.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

The scope of claim 17 is unclear. What is the "device for carrying out the method"? Is the device a microprocessor, or is it the software containing the instructions for carrying out the method which would be loaded into the microprocessor?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 17 as best understood is rejected under 35 U.S.C. 102(b) as being anticipated by Kono et al. '849. The clutch control unit 5 of Kono is capable of carrying out the zero correction of a clutch.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-17 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Beneton et al. '456 in view of Kono et al. 6849.

The '504 patent to Beneton et al. discloses a twin clutch system including a first

clutch 201a associated with a first partial transmission in a first branch, and a second clutch 201b associated with a second partial transmission in a second branch. The first and second clutches are operated by respective first and second actuating mechanisms 216, 215. Beneton et al. does not disclose the zero correction of the clutch actuating mechanisms. Kono et al. teaches an adaptive zero correction method for a motor vehicle clutch actuator. It would have been obvious to apply the teaching of Kono et al. to a twin clutch system of the type disclosed by Beneton et al. in order to ensure that a change in the feel of the vehicle caused by clutch wear is eliminated as suggested by Kono et al. at column 6, lines 65-68.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Information Disclosure Statement***

The information disclosure statement filed February 25, 2003 fails to comply with 37 CFR 1.97(c) because it lacks either a statement as specified in 37 CFR 1.97(e) or the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

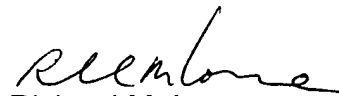


Art Unit: 3681

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (571) 272-7094. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Richard M. Lorence  
Primary Examiner  
Art Unit 3681

Lorence/rml